

HOUSE BILL 20
By Turner M

AN ACT to enact the "State Neutrality in Labor Organizing Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be called the "State Neutrality in Labor Organizing Act."

SECTION 2.

(a) The legislature finds that:

(1) It is the policy of the state not to interfere with an employee's choice about whether to join or to be represented by a labor union.

(2) Nevertheless, state funds and state property are used to aid or subsidize efforts by private employers to deter union organizing.

(3) Such use of state funds is contrary to the purposes for which they were appropriated and wasteful of scarce public resources.

(b) This act is enacted to maintain state neutrality in labor organizing, conserve state resources, and ensure that state funds are used for the purposes for which they were appropriated.

SECTION 3.

(a) As used in this act, unless the context otherwise requires:

(1) "Assist, promote or deter union organizing" means any attempt by an employer to influence the decision of any or all of its employees or the employees of its subcontractors regarding:

(A) Whether to support or oppose a labor organization that represents or seeks to represent those employees; or

(B) Whether to become a member of any labor organization.

(2) "Employer" means any individual, corporation, association, partnership or other legal entity that employs more than one person in the state.

(3) "State" means the state or any agency of state government.

(4) "State contract" means a contract with the state for goods or services, or a subcontract for providing part or all of the goods or services covered by another entity's contract for goods or services.

(5) "State contractor" means an employer that has a state contract.

(6) "State funds" means any money drawn from the state treasury or any special or trust fund of the state, including any money appropriated by the state and transferred to any public agency.

(7) "State property" means any real property or facility owned or leased by the state.

(b) No state funds shall be used to assist, promote or deter labor organizing.

(1) Any state contract for goods or services must prohibit state contractors from using any state funds to assist, promote, or deter union organizing. No state funds shall be used to reimburse a state contractor for any costs incurred to assist, promote or deter union organizing.

(2) During the duration of a state contract, no state contractor shall use any state funds to assist, promote or deter union organizing. Every request for reimbursement from state funds by a state contractor shall include a certification

that the contractor is not seeking reimbursement for costs incurred to assist, promote or deter union organizing.

(3) The recipient of a grant of state funds, including state funds disbursed as a grant by any public agency, shall not use the funds to assist, promote, or deter union organizing. Prior to the disbursement of a grant of state funds, the recipient shall provide a certification to the state that none of the funds will be used to assist, promote or deter union organizing.

(4) An employer conducting business on state property pursuant to a contract or concession agreement with the state, or a subcontractor on such a contract or agreement, shall not use state property to hold a meeting with any employees or supervisors if the purpose of the meeting is to assist, promote, or deter union organizing. This paragraph does not apply if the state property is equally available, without charge, to the general public for holding a meeting.

(5) No state contractor shall discharge, demote, harass or otherwise take adverse actions against any individual because such individual seeks to enforce this section, or testifies, assists or participates in any manner in an investigation, hearing, or other proceeding to enforce this section.

(6) For purposes of this section, any expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, or preparation, planning, or coordination of, or carrying out, an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity. For purposes of accounting for expenditures, if state funds and other funds are commingled, any expenditures to assist, promote or deter union organizing shall be allocated between state funds and other funds on a pro rata basis.

(c)

(1) This section shall not apply to an activity performed, or to an expense incurred, in connection with:

(A) Addressing a grievance or negotiating or administering a collective bargaining agreement.

(B) Allowing a labor organization or its representatives access to the employer's facilities or property.

(C) Performing an activity required by federal or state law or by a collective bargaining agreement.

(D) Negotiating, entering into, or carrying out a voluntary recognition agreement with a labor organization.

(2) This section shall not apply to a fixed-price contract or to any other arrangement by which the amount of the payment of state funds does not depend on the costs incurred by the state contractor.

(3) This section shall not apply to a grant or contract awarded prior to July 1, 2003, unless the grant or contract is modified, extended or renewed after July 1, 2003.

(d)

(1) This section shall be enforced by the department of general services, which shall promulgate such regulations as are necessary to implement and administer compliance. Regulations shall include reasonable requirements for state contractors and grantees to maintain records sufficient to show that no state funds are used to assist, promote, or deter union organizing.

(2) A civil action for a violation of this section may be brought by the attorney general and reporter, or by any state taxpayer on behalf of the people of the state, for injunctive relief, damages, civil penalties, and other appropriate

equitable relief. All damages and civil penalties collected pursuant to this section shall be paid to the state treasury.

(3) Before filing an action under this section, a taxpayer shall give written notice to the department of general services of the alleged violation and the intent to bring suit. If the state commences a civil action for the same alleged violation within sixty (60) days of receiving the notice, a separate action by the taxpayer shall be barred. A taxpayer may intervene as a plaintiff in any action brought under this section. If the plaintiff prevails, a taxpayer plaintiff or taxpayer intervenor who makes a substantial contribution to the action is entitled to recover reasonable attorney's fees and costs.

(4) A state contractor or employer that violates this section shall be liable to the state for a civil penalty equal to triple the amount of any funds expended to assist, promote, or deter union organizing.

SECTION 4. This act shall take effect July 1, 2003, the public welfare requiring it.